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10/534,093	05/06/2005	Stephen C.P Joseph	57862US002	2416
32692	7590	12/09/2009	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427				CERNOCH, STEVEN MICHAEL
ART UNIT		PAPER NUMBER		
		3752		
NOTIFICATION DATE			DELIVERY MODE	
12/09/2009			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/534,093	JOSEPH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	STEVEN CERNOCH	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 September 2009.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-7,9-40 and 42-44 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-7,9-40 and 42-44 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11 March 2009 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>10/22/2009</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claim Objections***

The claim objections of claims 17-19 are hereby withdrawn in light of the amendments made.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-7, 11, 13-15, 20-27, 30-37, 40 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph et al. (PCT Pub No WO 98/32539)(hereinafter as Joseph et al.'39) in view of Lintvedt et al. (US Pat No 5,143,294).

Regarding claim 1, Joseph et al. '39 shows a liquid supply assembly (Fig. 6, 12) for use with a gravity-fed spray gun (Fig. 6, 1) comprising a reservoir (12) for a liquid to be sprayed comprising a liner (Fig. 5, 13) which having a first end, a second end spaced from the first end, a side wall extending from the first end to the second end, a base at the second end, and an opening defined by the first end, wherein the liner is able to stand on its own, unsupported (page 9, lines 3-4), a lid (Fig. 4, 15) configured to fit within the opening in the liner, the lid having a central opening (16); a cap member (20)

positioned over the lid, the cap member having a spout (Fig. 1, 14) providing a fluid outlet communicating with the liner, the spout (Fig. 4, 17) being connectable to a spray gun and wherein the opening in the lid is oversize relative to the spout, an outer container for supporting the liner (12), wherein the cap member is releasably secured (20) to the reservoir (12), and a marginal edge of the opening in the lid (15) is spaced inwardly from the side wall at the first end of the liner, and the reservoir can be detached from the cap member (20) for adding fluid to the reservoir through the opening in the lid

Joseph et al. '39 does not teach the cap member having a spout providing a fluid outlet communicating with the liner and wherein the opening in the lid is oversize relative to the spout

However, figure 2 of Lintvedt et al. teaches the cap member having a spout (Fig. 1, 14) providing a fluid outlet communicating with the liner and wherein the opening in the lid is oversize relative to the spout (Figure 2 – as shown the spout 14 fits inside the lid 22 via the opening 24 and therefore the opening 24 is oversize relative to the spout).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have motivation to modify the cap member of Joseph et al. with the cap member of Lintvedt et al. to form a seal (col. 3, lines 39-49).

Regarding claim 3, Joseph et al. '39 discloses wherein the liner is collapsible as liquid is withdrawn page 9, lines 3-6).

Regarding claim 4, Joseph et al.'39 discloses such features of the side wall being flexible in comparison to the base so as to be capable of deforming to collapse the

reservoir in an axial direction from the second end towards the first end (13 and 15 in fig. 7 and page 9, lines 3-6).

Regarding claim 5, Joseph et al.'39 teaches such limitations that the liner is provided with a comparatively-rigid base at the second end such that the reservoir can be inverted and stood on the base for adding liquid through the opening in the liner (1 and 11 in fig. 5 and page 9, lines 3-6).

Regarding claims 6 and 7, Joseph et al.'39 discloses such limitations that the liner is formed in one piece and that the base and sidewall are formed in one piece with the liner being formed as a separate piece that is secured to the sidewall (15 and 13 of fig. 2, and page 9, lines 6-8).

Regarding to claim 11, Joseph et al.'39 discloses such limitation of the lid is releasably secured to the liner (page 16, line 3-5).

Regarding claim 13, Joseph et al. teaches said screw-fit cap member (Fig. 4, 20).

Regarding claim 14, Joseph et al.'39 does disclose the claimed limitation of the cap member is a snap-fit on the reservoir (page 12, lines 15-20).

Regarding claim 15, Joseph et al. '39 discloses said cap member, which comprises a base defining a socket with an internal screw thread, engage able with an externally threaded spigot bounding the opening in the reservoir (Fig. 4, 20).

Regarding to claim 20 and 43, Joseph et al. '39 teaches all the limitations of the claim except for the opening in the lid dimensions of 50-60 mm and the spout diameter of 10-15 mm (regarding to claim 20) or the cap member being releasably connectable to

the spray gun by means requiring less than one complete turn (regarding to claim 43) as required. However, such features of the opening dimensions of 50-60 mm and the spout diameter of 10-15 mm, or the cap member being releasably connectable to the spray gun by means requiring less than one complete turn are considered arbitrary obvious design choices, because Applicant has not disclosed that the reservoir opening of 50-60 mm and the spout diameter of 10-15 mm, or the reservoir opening of the cap member being releasably connectable to the spray gun by means requiring less than one complete turn provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the claimed dimensions or the dimensions of Joseph et al. '39. Therefore, it would have been an obvious matter of design choice to modify the device of Joseph et al. '39 to obtain the invention as specified in claim 20 or 43 of the instant application.

Regarding claims 21 and 22, the teaching of Joseph et al. '39 teaches that the reservoir has a central longitudinal axis and the opening is located centrally on the longitudinal axis (regarding claim 21), or the spout is coaxial with the opening (regarding claim 22) (Fig. 2, 12, 17).

Regarding claim 23, Joseph et al.'39 teaches such claimed limitation of the cap member is releasably connectable to the spraying apparatus (page 16, line 3-5).

Regards claim 24, Joseph et al.'39 teaches such limitation of the bayonet formations of the cap member (page 8, lines 17-19 and 26-30).

Regarding to claims 25-27, Joseph et al.'39 discloses that such features of the spraying apparatus is provided with a socket to receive the spout and the bayonet type formations are engage able to retain the spout in the socket, that the bayonet type formations are engage able within the socket, and that the spout is provided with opposed bayonet lugs at the free end that are received in bayonet grooves in the socket (11, 18, 20 21, 22 and 23 of Fig. 4, and page 8, lines 17-19 and 26-30).

Regards to claim 30, Joseph et al.'39 teaches such claimed limitations of the cap member includes a filter for removing any unwanted solid particles contained in the liquid withdrawn from the reservoir (42 and 45 in Fig. 16).

Regarding to claim 31, Joseph et al.'39 disclose such claimed limitation of the filter is located in the spout (42 and 45 of Fig. 17).

Regards to claim 32, Joseph et al.'39 discloses the filter is located in the cap member to extend across the inner end of the spout (42 and 45 of fig. 15).

Regarding claims 33, 34 and 36, Joseph et al. '39 discloses that the opening is sealed (regarding to claim 33) using a removable closure (regarding to claim 34), or the cap member is adapted to seal the opening until it is desired to use the liquid (regarding to claim 36)(Fig. 2, 20).

Regards to claim 35, Joseph et al.'39 does disclose the cap member is adapted to rupture the membrane (page 15, lines 11-12).

Regarding claim 37, Joseph et al. does not show the cap member provided with a removable element to close the spout.

However, Lintvedt et al. discloses the cap member provided with a removable element to close the spout (34 and 26 of figure 3).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have motivation to modify the cap member of Joseph et al. with the cap member of Lintvedt et al. to reseal after use (col. 3, lines 52-55).

Regarding claim 40, Joseph et al. '39 does not teach the cap member with a base (26) and a spout (14), the cap member being releasably secured to the reservoir by engagement of complementary screw threads on the base and on the end wall around the opening (30 and 32), and the spout extends from the base away from the reservoir (20), the spout providing a fluid outlet of reduced cross-section relative to the opening (14 and 20).

However, figure 1 of Lintvedt et al. teaches the cap member with a base (26) and a spout (14), the cap member being releasably secured to the reservoir by engagement of complementary screw threads on the base and on the end wall around the opening (30 and 32), and the spout extends from the base away from the reservoir (20), the spout providing a fluid outlet of reduced cross-section relative to the opening (14 and 20).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have motivation to modify the cap member of Joseph et al. with the cap member of Lintvedt et al. to for a better seal (col. 3, lines 39-49).

Regarding claim 42, Joseph et al. '39 teaches that the reservoir has a central longitudinal axis and the opening and spout are arranged coaxially with respect to the longitudinal axis (Fig. 2, 20, 17).

In regards to claim 44, figure 1 of Joseph et al. '39 discloses that the opening (Fig. 2, 12) is oversize relative to the flow requirements when the reservoir is connected to the spray gun in use (Fig. 6, 1), and the fluid outlet provided by the spout (Fig. 2, 17) is of reduced cross-section relative to the opening, wherein the opening permits fast-filling of the reservoir when the cap member is detached from the reservoir for adding fluid to the reservoir through the opening.

Claims 9, 10, 12 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph et al. (PCT Pub No WO 98/32539)(hereinafter as Joseph et al.'39) in view of Lintvedt et al. (US Pat No 5,143,294) and further in view of Joseph et al. (PCT Pub No WO02/085533)(hereinafter as Joseph et al.'33).

Regarding to claim 9, the teachings of Lintvedt et al. and Joseph et al.'39 do not specifically disclose that the lid is permanently secured to the liner as required. However, Joseph et al.'33 broadly disclose that such feature of the lid is permanently secured to the container (pages 6-7, lines 31-32 and 1). Thus, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the lid is permanently secured to the container taught by Joseph et al.'33. The motivation to combine is a flexible reservoir is known in the art.

Regards to claim 10, the teachings of Lintvedt et al. and Joseph et al.'39 do not explicitly teach that the lid is welded or adhesively bonded to the liner, however, Joseph et al.'33 discloses that the claimed limitations the lid is welded or adhesively bonded to the container (page 6, lines 11-12, 31-32 and page 7, line 1). Therefore, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the lid is welded or adhesively bonded to the container taught by Joseph et al.'33. The motivation to combine is a lid is known in the art.

Regards to claim 12, Lintvedt et al. and Joseph et al.'39 do not show that the lid is clamped to the liner as required, however, Joseph et al.'33 teaches that that the lid is clamped to the container (page 6, lines 12-14, 31-32 and page 7, line 1). Hence, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the lid is clamped to the container taught by Joseph et al.'33. The motivation to combine is a lid is known in the art.

Regards to claims 17-19, Lintvedt et al. and Joseph et al. '39 do not show that the spout has a diameter less than half the diameter of the opening in the lid (regarding to claim 17), or less than a third of the diameter of the opening in the lid (regarding to claim 18), or less than a quarter of the diameter of the opening in the lid (regarding to claim 19), however, Joseph et al. '33 does teach that the spout has a diameter less than half the diameter of the opening in the lid (regarding to claim 17), or less than a third of

the diameter of the opening in the lid (regarding to claim 18), or less than a quarter of the diameter of the opening in the lid (regarding to claim 19) (Fig. 2, #'s 16 and 12).

Claims 16, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph et al. (PCT Pub No WO 98/32539)(hereinafter as Joseph et al.'39) in view of Lintvedt et al. (US Pat No 5,143,294) in further view of Petrie et al. (US Pat No 6,595,441).

Regarding to claim 16, the teachings of Lintvedt et al. and Joseph et al.'39 do not disclose that the opening in the reservoir has an internal screw thread and the cap member has a base provided with an externally threaded portion engage able with the internal screw thread as required. However, Petrie et al. discloses such claimed limitations of the opening in the reservoir has an internal screw thread and the cap member has a base provided with an externally threaded portion engage able with the internal screw thread (11, 36 and 34 of Fig. 3). Therefore, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the reservoir has an internal screw thread and the cap member has a base provided with an externally threaded portion engage able with the internal screw thread taught by Petrie et al. The motivation to combine is a flexible reservoir is known in the art.

Regarding to claim 28, Lintvedt et al. and Joseph et al.'39 do not teach that the bayonet type formations are engage able externally of the socket, however, Petrie et al. broadly discloses the claimed limitations of the bayonet type formations are engage able externally of the socket (34 and 45 of Fig. 2). Therefore, it would have been

obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the bayonet type formations are engage able externally of the socket taught by Petrie et al. The motivation to combine is bayonet formations are known in the art.

Regarding to claim 29, the teachings of Lintvedt et al. and Joseph et al.'39 do not disclose that the socket has an external flange co-operable with a pair of hook members extending from the cap member on opposite sides of the spout as required. However, Petrie et al. teaches the socket has an external flange co-operable with a pair of hook members extending from the cap member on opposite sides of the spout (34, 48, 49, 50, 52 and 54 of Fig. 3). Therefore, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the socket has an external flange co-operable with a pair of hook members extending from the cap member on opposite sides of the spout taught by Petrie et al. The motivation to combine is a socket with hook members is known in the art.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph et al. (PCT Pub No WO98/32539) in view of Lintvedt et al. (US Pat No 5,143,294) in further view of Holzner et al. (US Pat No 5,421,489).

Regarding claim 38, it is noted that the teachings of Lintvedt et al. and Joseph et al.'39 do not disclose the rupturable membrane provided across the outer end of the spout as required. However, the teaching of Holzner et al. discloses that such feature of the rupturable membrane provided across the outer end of the spout (column 1, lines

21-22) is old and well known. Hence, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the rupturable membrane provided across the outer end of the spout taught by Holzner et al. The motivation to combine is a rupturable membrane is known in the art.

In regards to claim 39, Lintvedt et al. and Joseph et al.'39 do explicitly teach that the spraying apparatus is adapted to rupture the membrane, however, Holzner et al. teaches that such limitation of the spraying apparatus is adapted to rupture the membrane (column 1, lines 22-25) is old and well known. Therefore, it would have been obvious at the time of the invention to a person having ordinary skill in the art to modify the apparatus of Lintvedt et al. and Joseph et al.'39 with the spraying apparatus is adapted to rupture the membrane taught by Holzner et al. The motivation to combine is a rupturable membrane is known in the art.

### ***Response to Arguments***

Applicant's arguments filed 9/16/2009 have been fully considered but they are not persuasive. Regarding applicant's arguments against that the rationale of combining Joseph et al. '539 and Lintvedt et al. has no basis, the Examiner has removed the word "better" from the motivation recited. However, it should be noted that it is irrelevant as to whether the seal of Joseph et al. is superior or not as the sealing features of Lintvedt et al. provide for a different type of seal. Regarding the argument that the combination is unsatisfactory for it's intended purpose, the Examiner would like to remind applicant that as said during the interview on 8/5/2009, the sizes depicted in the drawings are

relative and subject to common sense in real world operations. Regarding the argument that the combination changes the principle operation of Joseph '539, as noted above the sizes are relative and subject to common sense in real world applications, however it should also be noted that the pliant container of Lintvedt et al. is collapsible as well and therefore the dip tube would still be suitable in the pliant, collapsible container of Joseph '539. Regarding the argument that the combination does not reach applicant's claim, again the Examiner would like to remind applicant of the discussion from the interview on 8/5/2009 that the hole in the cap of Lintvedt et al. is still capable of performing the claimed limitation and therefore applicant's argument that it is untenable is erroneous.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN CERNOCH whose telephone number is (571)270-3540. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./  
Examiner, Art Unit 3752

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752